

Attorney Docket No. 356-014-USP

REMARKS

This Amendment is being submitted in response to the Office action mailed on November 25, 2005 and is believed to be fully responsive thereto. Claims 1-81 are pending in the application, of which claims 31-81 have previously been withdrawn from consideration. In the Office action, the Examiner has rejected claims 1-8, 16, 17, and 23-30. The Examiner has also indicated that claims 9-15 and 18-22 include allowable subject matter, but has objected to those claims as being dependent on a rejected base claim. Applicant has amended claims 12, 17, 23, and 30. Claim 12 has been amended to correct a typographical error as described below; claims 17 and 30 as well as portions of the summary section of the specification of the present application have been amended to replace a trademark "laopare" with what applicant believes to be its generic equivalent "isoparaffinic fluids" in order to avoid any possible ambiguity; and claim 23 has been amended to correct a misspelling of "fluoropolymer." No new matter has been added.

Objection to the Specification

The Examiner has objected to the specification because the abstract of the disclosure is not in the range of 50 to 150 words. Applicant has amended the specification to comply with the Examiner's request.

Objections to the Claims

The Examiner has objected to claim 12 because of an informality in which the word "though" should be "through." Applicant has amended claim 12 to correct this typographical error.

Rejections Under 35 U.S.C. §102

The Examiner has rejected claims 1-8, 16, 17, 23, 24, 29, and 30 under 35 U.S.C. §102(b) as being anticipated by United States patent number 6,918,991 issued to Chickering et al. (the "Chickering reference"). Applicant respectfully traverses this rejection for at least the following reasons.

Claim 1, from which claims 2-8, 16, 17, 23, 24, 29, and 30 depend, recites "dry fibrillizing the dry binder to create a matrix within which to support the dry carbon particles as a dry material." As stated on page 28 of the specification of the present application, fibrillizing the dry binder occurs predominantly through particle-to-particle collisions to fibrillize the dry binder within the mixture of dry carbon particles and dry binder.

Attorney Docket No. 356-014-USP

The Examiner argues that the Chickering reference discloses "dry fibrillizing the dry binder to create a matrix within which to support the dry carbon particles as a dry material." In particular, the Examiner points to the following:

flowing the combined feedstream through an inline jet mill to deagglomerate or grind the particles and dry powder material of the combined feedstream, wherein the jet mill comprises a spiral jet mill or other fluid energy impact mill.

Chickering, column 24, lines 3-7, emphasis supplied. The disclosure of the Chickering reference, as seen above, however, discloses flowing a feedstream through a jet mill to deagglomerate or grind particles. Deagglomerating or grinding particles in a jet mill is not the same as fibrillizing a dry binder to create a matrix. While the deagglomerating or grinding process results in smaller particles, the fibrillizing process creates a matrix of the dry binder, such as through particle-to-particle collisions. Thus, the Chickering reference fails to disclose, teach, or suggest at least "dry fibrillizing the dry binder to create a matrix within which to support the dry carbon particles as a dry material" as recited in claim 1. Anticipation requires that the cited reference disclose each and every limitation of the claim. The Chickering reference thus fails to anticipate Independent claim 1 as well as claims 2-8, 16, 17, 23, 24, 29, and 30 that depend from claim 1. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claims 1-8, 16, 17, 23, 24, 29, and 30 and to allow claims 1-8, 16, 17, 23, 24, 29, and 30.

Without conceding any additional arguments made by the Examiner that are not specifically addressed, the Examiner argues that the Chickering reference anticipates claims 16, 17, 29, and 30 because the Chickering reference discloses that, "the dry material is manufactured without the substantial use of any processing additives." Applicant traverses this rejection for at least the following reasons.

The specification of the present application at page 3, lines 4-13 specifically defines the term "additive" as including "solvents, lubricants, liquids, plasticizers, and the like." The specification of the present application further discloses that use of such processing additives in a capacitor product such as an electrode reduce the operating lifetime and maximum operating voltage of a final capacitor product typically due to undesirable chemical interactions that can occur between residues of such additive(s) and a subsequently used capacitor electrolyte. The Chickering reference, however, specifically discloses using an emulsion, solution, or suspension comprising a solvent and a bulk material. See, e.g., column 5, lines 20-22 and column 23, lines 56-57. Thus, the Chickering reference clearly does not disclose, teach, or suggest the manufacture of the dry material substantially without processing additives. Accordingly, Applicants respectfully request the Examiner to

Attorney Docket No. 356-014-USP

reconsider and withdraw the rejections of claims 16, 17, 29, and 30 for at least these reasons and to allow claims 16, 17, 29, and 30.

The Examiner also argues that the Chickering reference anticipates claim 23 because the reference discloses that the binder comprises a fibrillizable fluoropolymer pointing to column 16, line 66 to column 17, line 3. Applicant respectfully traverses this rejection for at least the following reasons.

The reference to a broad group of binders in the Chickering reference at column 16, line 66 to column 17, line 3 ("Examples of binder include starch, gelatin, sugars, gums, polyethylene glycol, ethylcellulose, waxes and polyvinylpyrrolidone, [etc.]") does not anticipate the present process, because these are not "fibrillizable fluoropolymers." There is no teaching in Chickering of fibrillizing or fluoropolymers. Moreover, even if the wide grouping from this section of Chickering could be considered a genus for the species including fluoropolymers, particularly fluoropolymers having characteristics of being fibrillizable, a reference citation to a broad genus does not necessarily anticipate the more specific species here because, as stated in MPEP § 2131.02, such a broad statement of a genus will not anticipate the species if the species cannot be "at once envisaged" from the genus. There being nothing in Chickering to indicate fluoropolymers specifically, nor of the claimed characteristic of being fibrillizable, there is nothing from the broad genus of Chickering for "at once envisage[ing]" these species. See also *Ex parte A*, 17 USPQ2d 1716 (Bd. Pat. App. & Inter. 1990); *In re Petering*, 301 F.2d 676, 133 USPQ 275 (CCPA 1962), and *In re Papesch*. For at least these reasons, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claim 23 and to allow claim 23.

Rejections Under 35 U.S.C. §103

The Examiner has rejected claims 25-28 under 35 U.S.C. §103(a) as being unpatentable over United States patent number 6,918,991 issued to Chickering et al. (the "Chickering reference"). Applicant respectfully traverses this rejection for at least the following reasons.

Claim 1, from which claims 25-28 depend, recites "dry fibrillizing the dry binder to create a matrix within which to support the dry carbon particles as a dry material." As stated on page 28 of the specification of the present application, fibrillizing the dry binder occurs predominantly through particle-to-particle collisions to fibrillize the dry binder within the mixture of dry carbon particles and dry binder.

Attorney Docket No. 356-014-USP

The Examiner argues that the Chickering reference discloses "dry fibrillizing the dry binder to create a matrix within which to support the dry carbon particles as a dry material." In particular, the Examiner points to the following:

flowing the combined feedstream through an inline jet mill to deagglomerate or grind the particles and dry powder material of the combined feedstream, wherein the jet mill comprises a spiral jet mill or other fluid energy impact mill.

Emphasis supplied. The disclosure of the Chickering reference, as seen above, however, discloses flowing a feedstream through a jet mill to deagglomerate or grind particles. Deagglomerating or grinding particles in a jet mill is not the same as fibrillizing a dry binder to create a matrix. Nor does deagglomerating or grinding teach, suggest, or even enable fibrillizing a dry binder to create a matrix. While the deagglomerating or grinding process results in smaller particles, the fibrillizing process creates a matrix of the dry binder, such as through particle-to-particle collisions. Thus, the Chickering reference fails to disclose, teach, suggest, or enable at least "dry fibrillizing the dry binder to create a matrix within which to support the dry carbon particles as a dry material" as recited in claim 1. Since obviousness requires that the cited prior art reference teach or suggest every limitation of the claimed invention, neither claim 1 nor claims 25-28 that depend from claim 1 are obvious in view of the Chickering reference. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claims 25-28 and to allow claims 25-28.

In addition, the citation of *In re Aller*, 105 USPQ 233 with respect to claims 25-28 is also inapposite. First, as set forth in MPEP 2144 "legal precedent can provide the rationale supporting obviousness only if the facts in the case are sufficiently similar to those in the application," and here, no facts from the cases have been established for any purpose let alone making sure they are "sufficiently similar" to the present case. Moreover, the alleged rule of *In re Aller* is a so-called "negative rule of patentability" which may not be substituted for the objective test enunciated by the Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), see MPEP 2141. In any case, the alleged rule of *In re Aller* fails to support obviousness here.

Allowable Subject Matter

The Applicant acknowledges with appreciation the indication of allowable subject matter in claims 9-15 and 18-22 in the subject application by the Examiner. The Applicant agrees with the Examiner's statement of reasons for the indication of allowable subject matter to the extent that claims 9-15 and 18-22 are patentable over the references in the record.

Attorney Docket No. 356-014-USP

However, the Applicant expressly traverses the Examiner's statement of reasons for the indication of allowable subject matter to the extent that any statement is intended to or has the intended effect of limiting a claim scope, explicitly or implicitly, by not reciting verbatim the respective claim language, or is intended to or has the effect of limiting a claim scope by stating or implying that all the reasons for patentability are in any way fully enumerated. The Applicant specifically does not acquiesce or agree in any manner as to any assertion in Examiner's statements that may be interpreted to narrow the claims to less than their recited scope.

The Applicant further points out that the statement of reasons for the indication of allowable subject matter set forth by the Examiner are not the only reasons that the claims are allowable. Further reasons for allowance of the claims beyond those enumerated by the Examiner are described and set forth in the Applicant's specification. In addition, structures and methods that perform substantially the same function in substantially the same way to achieve substantially the same results are included within the scope of the claims.

Finally, as the Examiner's reasons for allowance are not exhaustive, such reasons for allowance do not establish estoppel against Applicant seeking and obtaining allowance of additional, broader claims in a continuation application, which Applicant reserves the right to file.

This Amendment is submitted contemporaneously with a petition for a one-month extension of time in accordance with 37 CFR § 1.136(a). Accordingly, please charge Deposit Account No. 50-3199 in the amount of \$60, for the one-month extension of time fee. The Applicant believes no further fees or petitions are required. However, if any such petitions or fees are necessary, please consider this a request therefore and authorization to charge Deposit Account No. 50-3199 accordingly.

Attorney Docket No. 356-014-USP

CONCLUSION

Claims 1-30 are pending, and the Applicant believes each claim is currently in a condition for allowance and respectfully requests prompt issuance of a Notice of Allowability.

If the Examiner should require any additional information or amendment, please contact the undersigned attorney.

Dated: March 27, 2006.

Respectfully submitted,



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